

115TH CONGRESS
1ST SESSION

S. 714

To amend Public Law 103–434 to authorize Phase III of the Yakima River Basin Water Enhancement Project for the purpose of improving water management in the Yakima River basin, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2017

Ms. CANTWELL (for herself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend Public Law 103–434 to authorize Phase III of the Yakima River Basin Water Enhancement Project for the purpose of improving water management in the Yakima River basin, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Yakima River Basin
5 Water Enhancement Project Phase III Act of 2017”.

1 **SEC. 2. MODIFICATION OF TERMS, PURPOSES, AND DEFINI-**
2 **TIONS.**

3 (a) MODIFICATION OF TERMS.—Title XII of Public
4 Law 103–434 (108 Stat. 4550) is amended—

5 (1) by striking “Yakama Indian” each place it
6 appears (except section 1204(g)) and inserting
7 “Yakama”; and

8 (2) by striking “Superintendent” each place it
9 appears and inserting “Manager”.

10 (b) MODIFICATION OF PURPOSES.—Section 1201 of
11 Public Law 103–434 (108 Stat. 4550) is amended—

12 (1) by striking paragraph (1) and inserting the
13 following:

14 “(1) to protect, mitigate, and enhance fish and
15 wildlife and the recovery and maintenance of self-
16 sustaining harvestable populations of fish and other
17 aquatic life, both anadromous and resident species,
18 throughout their historic distribution range in the
19 Yakima Basin through—

20 “(A) improved water management and the
21 constructions of fish passage at storage and di-
22 version dams, as authorized under the Hoover
23 Power Plant Act of 1984 (43 U.S.C. 619 et
24 seq.);

25 “(B) improved instream flows and water
26 supplies;

1 “(C) improved water quality, watershed,
2 and ecosystem function;

3 “(D) protection, creation, and enhance-
4 ment of wetlands; and

5 “(E) other appropriate means of habitat
6 improvement;”;

7 (2) in paragraph (2), by inserting “, municipal,
8 industrial, and domestic water supply and use pur-
9 poses, especially during drought years, including re-
10 ducing the frequency and severity of water supply
11 shortages for pro-ratable irrigation entities” before
12 the semicolon at the end;

13 (3) by striking paragraph (4);

14 (4) by redesignating paragraph (3) as para-
15 graph (4);

16 (5) by inserting after paragraph (2) the fol-
17 lowing:

18 “(3) to authorize the Secretary to make water
19 available for purchase or lease for meeting munic-
20 ipal, industrial, and domestic water supply pur-
21 poses;”;

22 (6) by redesignating paragraphs (5) and (6) as
23 paragraphs (6) and (8), respectively;

24 (7) by inserting after paragraph (4) (as so re-
25 designated) the following:

1 “(5) to realize sufficient water savings from im-
2 plementing the Yakima River Basin Integrated
3 Water Resource Management Plan, so that not less
4 than 85,000 acre feet of water savings are achieved
5 by implementing the first phase of the Integrated
6 Plan pursuant to section 1213(a), in addition to the
7 165,000 acre feet of water savings targeted through
8 the Basin Conservation Program, as authorized on
9 October 31, 1994;”;

10 (8) in paragraph (6) (as so redesignated)—

11 (A) by inserting “an increase in” before
12 “voluntary”; and

13 (B) by striking “and” at the end;

14 (9) by inserting after paragraph (6) (as so re-
15 designated) the following:

16 “(7) to encourage an increase in the use of, and
17 reduce the barriers to, water transfers, leasing, mar-
18 kets, and other voluntary transactions among public
19 and private entities to enhance water management
20 in the Yakima River basin;”;

21 (10) in paragraph (8) (as redesignated by para-
22 graph (6)), by striking the period at the end and in-
23 serting a semicolon; and

24 (11) by adding at the end the following:

1 “(9) to improve the resilience of the ecosystems,
2 economies, and communities in the Basin as they
3 face drought, hydrologic changes, and other related
4 changes and variability in natural and human sys-
5 tems, for the benefit of both the people and the fish
6 and wildlife of the region; and

7 “(10) to authorize and implement the Yakima
8 River Basin Integrated Water Resource Manage-
9 ment Plan as Phase III of the Yakima River Basin
10 Water Enhancement Project, as a balanced and
11 cost-effective approach to maximize benefits to the
12 communities and environment in the Basin.”.

13 (c) MODIFICATION OF DEFINITIONS.—Section 1202
14 of Public Law 103–434 (108 Stat. 4550) is amended—

15 (1) by redesignating paragraphs (6), (7), (8),
16 (9), (10), (11), (12), (13), and (14) as paragraphs
17 (8), (10), (11), (13), (14), (15), (16), (18), and
18 (19), respectively;

19 (2) by inserting after paragraph (5) the fol-
20 lowing:

21 “(6) DESIGNATED FEDERAL OFFICIAL.—The
22 term ‘designated Federal official’ means the Com-
23 missioner of Reclamation (or a designee), acting
24 pursuant to the charter of the Conservation Advisory
25 Group.

1 “(7) INTEGRATED PLAN.—The terms ‘Inte-
 2 grated Plan’ and ‘Yakima River Basin Integrated
 3 Water Resource Plan’ mean the plan and activities
 4 authorized by the Yakima River Basin Water En-
 5 hancement Project Phase III Act of 2017 and the
 6 amendments made by that Act, to be carried out in
 7 cooperation with and in addition to activities of the
 8 State of Washington and Yakama Nation.”;

9 (3) by inserting after paragraph (8) (as redesign-
 10 nated by paragraph (1)) the following:

11 “(9) MUNICIPAL, INDUSTRIAL, AND DOMESTIC
 12 WATER SUPPLY AND USE.—The term ‘municipal, in-
 13 dustrial, and domestic water supply and use’ means
 14 the supply and use of water for—

15 “(A) domestic consumption (whether urban
 16 or rural);

17 “(B) maintenance and protection of public
 18 health and safety;

19 “(C) manufacture, fabrication, processing,
 20 assembly, or other production of a good or com-
 21 modity;

22 “(D) production of energy;

23 “(E) fish hatcheries; or

1 “(F) water conservation activities relating
2 to a use described in subparagraphs (A)
3 through (E).”;

4 (4) by inserting after paragraph (11) (as redese-
5 gnated by paragraph (1)) the following:

6 “(12) PRORATABLE IRRIGATION ENTITY.—The
7 term ‘proratable irrigation entity’ means a district,
8 project, or State-recognized authority, board of con-
9 trol, agency, or entity located in the Yakima River
10 basin that—

11 “(A) manages and delivers irrigation water
12 to farms in the basin; and

13 “(B) possesses, or the members of which
14 possess, water rights that are proratable during
15 periods of water shortage.”; and

16 (5) by inserting after paragraph (16) (as redese-
17 gnated by paragraph (1)) the following:

18 “(17) YAKIMA ENHANCEMENT PROJECT; YAK-
19 IMA RIVER BASIN WATER ENHANCEMENT
20 PROJECT.—The terms ‘Yakima Enhancement
21 Project’ and ‘Yakima River Basin Water Enhance-
22 ment Project’ mean the Yakima River basin water
23 enhancement project authorized by Congress pursu-
24 ant to this Act and other Acts (including Public Law
25 96–162 (93 Stat. 1241), section 109 of Public Law

1 98–381 (16 U.S.C. 839b note; 98 Stat. 1340), Pub-
 2 lic Law 105–62 (111 Stat. 1320), and Public Law
 3 106–372 (114 Stat. 1425)) to promote water con-
 4 servation, water supply, habitat, and stream en-
 5 hancement improvements in the Yakima River
 6 basin.”.

7 **SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION PRO-**
 8 **GRAM.**

9 Section 1203 of Public Law 103–434 (108 Stat.
 10 4551) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1)—

13 (i) in the second sentence, by striking
 14 “title” and inserting “section”; and

15 (ii) in the third sentence, by striking
 16 “within 5 years of the date of enactment
 17 of this Act”; and

18 (B) in paragraph (2), by striking “irriga-
 19 tion” and inserting “the number of irrigated
 20 acres”;

21 (2) in subsection (c)—

22 (A) in paragraph (2)—

23 (i) in each of subparagraphs (A)
 24 through (D), by striking the comma at the
 25 end and inserting a semicolon;

1 (ii) in subparagraph (E), by striking
2 the comma at the end and inserting “;
3 and”;

4 (iii) in subparagraph (F), by striking
5 “Department of Wildlife of the State of
6 Washington, and” and inserting “Depart-
7 ment of Fish and Wildlife of the State of
8 Washington.”; and

9 (iv) by striking subparagraph (G);

10 (B) in paragraph (3)—

11 (i) in each of subparagraphs (A)
12 through (C), by striking the comma at the
13 end and inserting a semicolon;

14 (ii) in subparagraph (D), by striking
15 “, and” and inserting a semicolon;

16 (iii) in subparagraph (E), by striking
17 the period at the end and inserting “;
18 and”; and

19 (iv) by adding at the end the fol-
20 lowing:

21 “(F) provide recommendations to advance
22 the purposes and programs of the Yakima En-
23 hancement Project, including the Integrated
24 Plan.”; and

1 (C) by striking paragraph (4) and insert-
 2 ing the following:

3 “(4) AUTHORITY OF DESIGNATED FEDERAL OF-
 4 FICIAL.—The designated Federal official may—

5 “(A) arrange and provide logistical support
 6 for meetings of the Conservation Advisory
 7 Group;

8 “(B) use a facilitator to serve as a moder-
 9 ator for meetings of the Conservation Advisory
 10 Group or provide additional logistical support;
 11 and

12 “(C) grant any request for a facilitator by
 13 any member of the Conservation Advisory
 14 Group.”;

15 (3) in subsection (d), by adding at the end the
 16 following:

17 “(4) PAYMENT OF LOCAL SHARE BY STATE OR
 18 FEDERAL GOVERNMENT.—

19 “(A) IN GENERAL.—The State or the Fed-
 20 eral Government may fund not more than the
 21 17.5 percent local share of the costs of the
 22 Basin Conservation Program in exchange for
 23 the long-term use of conserved water, subject to
 24 the requirement that the funding by the Fed-
 25 eral Government of the local share of the costs

1 shall provide a quantifiable public benefit in
2 meeting Federal responsibilities in the Basin
3 and the purposes of this title.

4 “(B) USE OF CONSERVED WATER.—The
5 Yakima Project Manager may use water result-
6 ing from conservation measures taken under
7 this title, in addition to water that the Bureau
8 of Reclamation may acquire from any willing
9 seller through purchase, donation, or lease, for
10 water management uses pursuant to this title.”;

11 (4) in subsection (e), by striking the first sen-
12 tence and inserting the following: “To participate in
13 the Basin Conservation Program, as described in
14 subsection (b), an entity shall submit to the Sec-
15 retary a proposed water conservation plan.”;

16 (5) in subsection (i)(3)—

17 (A) by striking “purchase or lease” each
18 place it appears and inserting “purchase, lease,
19 or management”; and

20 (B) in the third sentence, by striking
21 “made immediately upon availability” and all
22 that follows through “Committee” and inserting
23 “continued as needed to provide water to be
24 used by the Yakima Project Manager as rec-
25 ommended by the System Operations Advisory

1 Committee and the Conservation Advisory
2 Group”; and

3 (6) in subsection (j)(4), in the first sentence, by
4 striking “initial acquisition” and all that follows
5 through “flushing flows” and inserting “acquisition
6 of water from willing sellers or lessors specifically to
7 provide improved instream flows for anadromous
8 and resident fish and other aquatic life, including
9 pulse flows to facilitate outward migration of anad-
10 romous fish”.

11 **SEC. 4. YAKIMA BASIN WATER PROJECTS, OPERATIONS,**
12 **AND AUTHORIZATIONS.**

13 (a) YAKAMA NATION PROJECTS.—Section 1204 of
14 Public Law 103–434 (108 Stat. 4555) is amended—

15 (1) in subsection (a)(2), in the first sentence,
16 by striking “not more than \$23,000,000” and in-
17 serting “not more than \$100,000,000”; and

18 (2) in subsection (g)—

19 (A) by striking the subsection heading and
20 inserting “REDESIGNATION OF YAKAMA INDIAN
21 NATION TO YAKAMA NATION.—”;

22 (B) by striking paragraph (1) and insert-
23 ing the following:

24 “(1) REDESIGNATION.—The Confederated
25 Tribes and Bands of the Yakama Indian Nation

1 shall be known and designated as the ‘Confederated
2 Tribes and Bands of the Yakama Nation.’”; and

3 (C) in paragraph (2), by striking “deemed
4 to be a reference to the ‘Confederated Tribes
5 and Bands of the Yakama Indian Nation.’” and
6 inserting “deemed to be a reference to the
7 ‘Confederated Tribes and Bands of the Yakama
8 Nation’.”.

9 (b) OPERATION OF YAKIMA BASIN PROJECTS.—Sec-
10 tion 1205 of Public Law 103–434 (108 Stat. 4557) is
11 amended—

12 (1) in subsection (a)—

13 (A) in paragraph (4)—

14 (i) in subparagraph (A)—

15 (I) in clause (i)—

16 (aa) by inserting “addi-
17 tional” after “secure”;

18 (bb) by striking “flushing”
19 and inserting “pulse”; and

20 (cc) by striking “uses” and
21 inserting “uses, in addition to the
22 quantity of water provided under
23 the treaty between the Yakama
24 Nation and the United States”;

25 (II) by striking clause (ii);

1 (III) by redesignating clause (iii)

2 as clause (ii); and

3 (IV) in clause (ii) (as so redesign-

4 nated) by inserting “and water rights

5 mandated” after “goals”; and

6 (ii) in subparagraph (B)(i), in the

7 first sentence, by inserting “in proportion

8 to the funding received” after “Program”;

9 (2) in subsection (b), in the second sentence, by

10 striking “instream flows for use by the Yakima

11 Project Manager as flushing flows or as otherwise”

12 and inserting “fishery purposes, as”; and

13 (3) in subsection (e), by striking paragraph (1)

14 and inserting the following:

15 “(1) IN GENERAL.—Additional purposes of the

16 Yakima Project shall be any of the following:

17 “(A) To recover and maintain self-sus-

18 taining harvestable populations of native fish,

19 both anadromous and resident species, through-

20 out their historic distribution range in the Yak-

21 ima Basin.

22 “(B) To protect, mitigate, and enhance

23 aquatic life and wildlife.

24 “(C) Recreation.

1 “(D) Municipal, industrial, and domestic
2 use.”.

3 (c) LAKE CLE ELUM AUTHORIZATION OF APPRO-
4 PRIATIONS.—Section 1206(a)(1) of Public Law 103–434
5 (108 Stat. 4560), is amended, in the matter preceding
6 subparagraph (A), by striking “at September” and all that
7 follows through “to—” and inserting “not more than
8 \$12,000,000 to—”.

9 (d) ENHANCEMENT OF WATER SUPPLIES FOR YAK-
10 IMA BASIN TRIBUTARIES.—Section 1207 of Public Law
11 103–434 (108 Stat. 4560) is amended—

12 (1) in the heading, by striking “**SUPPLIES**”
13 and inserting “**MANAGEMENT**”;

14 (2) in subsection (a)—

15 (A) in the matter preceding paragraph (1),
16 by striking “supplies” and inserting “manage-
17 ment”;

18 (B) in paragraph (1), by inserting “and
19 water supply entities” after “owners”; and

20 (C) in paragraph (2)—

21 (i) in subparagraph (A), by inserting
22 “that choose not to participate or opt out
23 of tributary enhancement projects pursu-
24 ant to this section” after “water right own-
25 ers”; and

1 (ii) in subparagraph (B), by inserting
2 “nonparticipating” before “tributary water
3 users”;

4 (3) in subsection (b)—

5 (A) in paragraph (1)—

6 (i) by striking the paragraph designa-
7 tion and all that follows through “(but not
8 limited to)—” and inserting the following:

9 “(1) IN GENERAL.—The Secretary, following
10 consultation with the State of Washington, tributary
11 water right owners, and the Yakama Nation, and on
12 agreement of appropriate water right owners, is au-
13 thorized to conduct studies to evaluate measures to
14 further Yakima Project purposes on tributaries to
15 the Yakima River. Enhancement programs that use
16 measures authorized by this subsection may be in-
17 vestigated and implemented by the Secretary in trib-
18 utaries to the Yakima River, including Taneum
19 Creek, other areas, or tributary basins that currently
20 or could potentially be provided supplemental or
21 transfer water by entities, such as the Kittitas Rec-
22 lamation District or the Yakima-Tieton Irrigation
23 District, subject to the condition that activities may
24 commence on completion of applicable and required
25 feasibility studies, environmental reviews, and cost-

1 benefit analyses that include favorable recommenda-
2 tions for further project development, as appro-
3 priate. Measures to evaluate include—”;

4 (ii) by indenting subparagraphs (A)
5 through (F) appropriately;

6 (iii) in subparagraph (A), by inserting
7 before the semicolon at the end the fol-
8 lowing: “, including irrigation efficiency
9 improvements (in coordination with pro-
10 grams of the Department of Agriculture),
11 consolidation of diversions or administra-
12 tion, and diversion scheduling or coordina-
13 tion”;

14 (iv) by redesignating subparagraphs
15 (C) through (F) as subparagraphs (E)
16 through (H), respectively;

17 (v) by inserting after subparagraph
18 (B) the following:

19 “(C) improvements in irrigation system
20 management or delivery facilities within the
21 Yakima River basin when those improvements
22 allow for increased irrigation system conveyance
23 and corresponding reduction in diversion from
24 tributaries or flow enhancements to tributaries

1 through direct flow supplementation or ground-
2 water recharge;

3 “(D) improvements of irrigation system
4 management or delivery facilities to reduce or
5 eliminate excessively high flows caused by the
6 use of natural streams for conveyance or irriga-
7 tion water or return water;”;

8 (vi) in subparagraph (E) (as redesign-
9 dated by clause (iv)), by striking “ground
10 water” and inserting “groundwater re-
11 charge and”;

12 (vii) in subparagraph (G) (as redesign-
13 dated by clause (iv)), by inserting “or
14 transfer” after “purchase”; and

15 (viii) in subparagraph (H) (as redesign-
16 dated by clause (iv)), by inserting “stream
17 processes and” before “stream habitats”;

18 (B) in paragraph (2)—

19 (i) in the matter preceding subpara-
20 graph (A), by striking “the Taneum Creek
21 study” and inserting “studies under this
22 subsection”;

23 (ii) in subparagraph (B)—

1 (I) by striking “and economic”
2 and inserting “, infrastructure, eco-
3 nomic, and land use”; and

4 (II) by striking “and” at the end;

5 (iii) in subparagraph (C), by striking
6 the period at the end and inserting “;
7 and”; and

8 (iv) by adding at the end the fol-
9 lowing:

10 “(D) any related studies already underway
11 or undertaken.”; and

12 (C) in paragraph (3), in the first sentence,
13 by inserting “of each tributary or group of trib-
14 utaries” after “study”;

15 (4) in subsection (c)—

16 (A) in the heading, by inserting “**AND**
17 **NONSURFACE STORAGE**” after “**NONSTOR-**
18 **AGE**”; and

19 (B) in the matter preceding paragraph (1),
20 by inserting “and nonsurface storage” after
21 “nonstorage”;

22 (5) by striking subsection (d);

23 (6) by redesignating subsection (e) as sub-
24 section (d); and

1 (7) in paragraph (2) of subsection (d) (as so re-
2 designated)—

3 (A) in the first sentence—

4 (i) by inserting “and implementation”
5 after “investigation”;

6 (ii) by striking “other” before “Yak-
7 ima River”; and

8 (iii) by inserting “and other water
9 supply entities” after “owners”; and

10 (B) by striking the second sentence.

11 (e) CHANDLER PUMPING PLANT AND POWERPLANT-
12 OPERATIONS AT PROSSER DIVERSION DAM.—Section
13 1208(d) of Public Law 103–434 (108 Stat. 4562; 114
14 Stat. 1425) is amended by inserting “negatively” before
15 “affected”.

16 (f) INTERIM COMPREHENSIVE BASIN OPERATING
17 PLAN.—Section 1210(e) of Public Law 103–434 (108
18 Stat. 4564) is amended by striking “\$100,000” and in-
19 serting “\$200,000”.

20 (g) ENVIRONMENTAL COMPLIANCE.—Section 1211
21 of Public Law 103–434 (108 Stat. 4564) is amended by
22 striking “\$2,000,000” and inserting “\$5,000,000”.

1 **SEC. 5. AUTHORIZATION OF PHASE III OF YAKIMA RIVER**
2 **BASIN WATER ENHANCEMENT PROJECT.**

3 Title XII of Public Law 103–434 (108 Stat. 4550)
4 is amended by adding at the end the following:

5 **“SEC. 1213. AUTHORIZATION OF THE INTEGRATED PLAN AS**
6 **PHASE III OF YAKIMA RIVER BASIN WATER**
7 **ENHANCEMENT PROJECT.**

8 “(a) INTEGRATED PLAN.—

9 “(1) IN GENERAL.—The Secretary shall imple-
10 ment the Integrated Plan as Phase III of the Yak-
11 ima River Basin Water Enhancement Project in ac-
12 cordance with this section and applicable laws.

13 “(2) INITIAL DEVELOPMENT PHASE OF THE IN-
14 TEGRATED PLAN.—

15 “(A) IN GENERAL.—The Secretary, in co-
16 ordination with the State of Washington and
17 Yakama Nation and subject to feasibility stud-
18 ies, environmental reviews, and the availability
19 of appropriations, shall implement an initial de-
20 velopment phase of the Integrated Plan, to—

21 “(i) complete the planning, design,
22 and construction or development of up-
23 stream and downstream fish passage facili-
24 ties, as previously authorized by the Hoo-
25 ver Power Plant Act of 1984 (43 U.S.C.
26 619 et seq.) at Cle Elum Reservoir and an-

1 other Yakima Project reservoir identified
2 by the Secretary as consistent with the In-
3 tegrated Plan, subject to the condition
4 that, if the Yakima Project reservoir iden-
5 tified by the Secretary contains a hydro-
6 power project licensed by the Federal En-
7 ergy Regulatory Commission, the Secretary
8 shall cooperate with the Federal Energy
9 Regulatory Commission in a timely manner
10 to ensure that actions taken by the Sec-
11 retary are consistent with the applicable
12 hydropower project license;

13 “(ii) negotiate long-term agreements
14 with participating proratable irrigation en-
15 tities in the Yakima Basin and, acting
16 through the Bureau of Reclamation, co-
17 ordinate between Bureaus of the Depart-
18 ment of the Interior and with the heads of
19 other Federal agencies to negotiate agree-
20 ments concerning leases, easements, and
21 rights-of-way on Federal land, and other
22 terms and conditions determined to be nec-
23 essary to allow for the non-Federal financ-
24 ing, construction, operation, and mainte-
25 nance of—

1 “(I) new facilities needed to ac-
2 cess and deliver inactive storage in
3 Lake Kachess for the purpose of pro-
4 viding drought relief for irrigation
5 (known as the ‘Kachess Drought Re-
6 lief Pumping Plant’); and

7 “(II) a conveyance system to
8 allow transfer of water between
9 Keechelus Reservoir to Kachess Res-
10 ervoir for purposes of improving oper-
11 ational flexibility for the benefit of
12 both fish and irrigation (known as the
13 ‘K to K Pipeline’);

14 “(iii) participate in, provide funding
15 for, and accept non-Federal financing
16 for—

17 “(I) water conservation projects,
18 not subject to the provisions of the
19 Basin Conservation Program de-
20 scribed in section 1203, that are in-
21 tended to partially implement the In-
22 tegrated Plan by providing 85,000
23 acre-feet of conserved water to im-
24 prove tributary and mainstem stream
25 flow; and

- 1 “(II) aquifer storage and recov-
2 ery projects;
- 3 “(iv) study, evaluate, and conduct fea-
4 sibility analyses and environmental reviews
5 of fish passage, water supply (including
6 groundwater and surface water storage),
7 conservation, habitat restoration projects,
8 and other alternatives identified as con-
9 sistent with the purposes of this Act, for
10 the initial and future phases of the Inte-
11 grated Plan;
- 12 “(v) coordinate with and assist the
13 State of Washington in implementing a ro-
14 bust water market to enhance water man-
15 agement in the Yakima River basin, in-
16 cluding—
- 17 “(I) assisting in identifying ways
18 to encourage and increase the use of,
19 and reduce the barriers to, water
20 transfers, leasing, markets, and other
21 voluntary transactions among public
22 and private entities in the Yakima
23 River basin;

1 “(II) providing technical assist-
2 ance, including scientific data and
3 market information; and

4 “(III) negotiating agreements
5 that would facilitate voluntary water
6 transfers between entities, including
7 as appropriate, the use of federally
8 managed infrastructure; and

9 “(vi) enter into cooperative agree-
10 ments with, or, subject to a minimum non-
11 Federal cost-sharing requirement of 50
12 percent, make grants to, the Yakama Na-
13 tion, the State of Washington, Yakima
14 River basin irrigation districts, water dis-
15 tricts, conservation districts, other local
16 governmental entities, nonprofit organiza-
17 tions, and land owners to carry out this
18 title under such terms and conditions as
19 the Secretary may require, including the
20 following purposes:

21 “(I) Land and water transfers,
22 leases, and acquisitions from willing
23 participants, so long as the acquiring
24 entity shall hold title and be respon-
25 sible for any and all required oper-

1 ations, maintenance, and management
2 of that land and water.

3 “(II) To combine or relocate di-
4 version points, remove fish barriers,
5 or for other activities that increase
6 flows or improve habitat in the Yak-
7 ima River and its tributaries in fur-
8 therance of this title.

9 “(III) To implement, in partner-
10 ship with Federal and non-Federal en-
11 tities, projects to enhance the health
12 and resilience of the watershed.

13 “(B) COMMENCEMENT DATE.—The Sec-
14 retary shall commence implementation of the
15 activities included under the initial development
16 phase pursuant to this paragraph—

17 “(i) on the date of enactment of this
18 section; and

19 “(ii) on completion of applicable feasi-
20 bility studies, environmental reviews, and
21 cost-benefit analyses that include favorable
22 recommendations for further project devel-
23 opment.

24 “(3) INTERMEDIATE AND FINAL PHASES.—

1 “(A) IN GENERAL.—The Secretary, in co-
2 ordination with the State of Washington and in
3 consultation with the Yakama Nation, shall de-
4 velop plans for intermediate and final develop-
5 ment phases of the Integrated Plan to achieve
6 the purposes of this Act, including conducting
7 applicable feasibility studies, environmental re-
8 views, and other relevant studies needed to de-
9 velop the plans.

10 “(B) INTERMEDIATE PHASE.—The Sec-
11 retary shall develop an intermediate develop-
12 ment phase to implement the Integrated Plan
13 that, subject to authorization and appropria-
14 tion, would commence not later than 10 years
15 after the date of enactment of this section.

16 “(C) FINAL PHASE.—The Secretary shall
17 develop a final development phase to implement
18 the Integrated Plan that, subject to authoriza-
19 tion and appropriation, would commence not
20 later than 20 years after the date of enactment
21 of this section.

22 “(4) CONTINGENCIES.—The implementation by
23 the Secretary of projects and activities identified for
24 implementation under the Integrated Plan shall be—

1 “(A) subject to authorization and appro-
2 priation;

3 “(B) contingent on the completion of appli-
4 cable feasibility studies, environmental reviews,
5 and cost-benefit analyses that include favorable
6 recommendations for further project develop-
7 ment;

8 “(C) implemented on public review and a
9 determination by the Secretary that design,
10 construction, and operation of a proposed
11 project or activity is in the best interest of the
12 public; and

13 “(D) in compliance with all applicable
14 laws, including the National Environmental
15 Policy Act of 1969 (42 U.S.C. 4321 et seq.)
16 and the Endangered Species Act of 1973 (16
17 U.S.C. 1531 et seq.).

18 “(5) PROGRESS REPORT.—

19 “(A) IN GENERAL.—Not later than 5 years
20 after the date of enactment of this section, the
21 Secretary, in conjunction with the State of
22 Washington and in consultation with the
23 Yakama Nation, shall submit to the Committee
24 on Energy and Natural Resources of the Senate
25 and the Committee on Natural Resources of the

1 House of Representatives a progress report on
2 the development and implementation of the In-
3 tegrated Plan.

4 “(B) REQUIREMENTS.—The progress re-
5 port under this paragraph shall—

6 “(i) provide a review and reassess-
7 ment, if needed, of the objectives of the In-
8 tegrated Plan, as applied to all elements of
9 the Integrated Plan;

10 “(ii) assess, through performance
11 metrics developed at the initiation of, and
12 measured throughout the implementation
13 of, the Integrated Plan, the degree to
14 which the implementation of the initial de-
15 velopment phase addresses the objectives
16 and all elements of the Integrated Plan;

17 “(iii) identify the amount of Federal
18 funding and non-Federal contributions re-
19 ceived and expended during the period cov-
20 ered by the report;

21 “(iv) describe the pace of project de-
22 velopment during the period covered by the
23 report;

24 “(v) identify additional projects and
25 activities proposed for inclusion in any fu-

1 ture phase of the Integrated Plan to ad-
2 dress the objectives of the Integrated Plan,
3 as applied to all elements of the Integrated
4 Plan; and

5 “(vi) for water supply projects—

6 “(I) provide a preliminary discus-
7 sion of the means by which—

8 “(aa) water and costs asso-
9 ciated with each recommended
10 project would be allocated among
11 authorized uses; and

12 “(bb) those allocations
13 would be consistent with the ob-
14 jectives of the Integrated Plan;
15 and

16 “(II) establish a plan for solie-
17 iting and formalizing subscriptions
18 among individuals and entities for
19 participation in any of the rec-
20 ommended water supply projects that
21 will establish the terms for participa-
22 tion, including fiscal obligations asso-
23 ciated with subscription.

1 “(b) FINANCING, CONSTRUCTION, OPERATION, AND
2 MAINTENANCE OF KACHESS DROUGHT RELIEF PUMPING
3 PLANT AND K TO K PIPELINE.—

4 “(1) AGREEMENTS.—Long-term agreements ne-
5 gotiated between the Secretary and participating
6 proratable irrigation entities in the Yakima Basin
7 for the non-Federal financing, construction, oper-
8 ation, and maintenance of the Drought Relief Pump-
9 ing Plant and K to K Pipeline shall include provi-
10 sions regarding—

11 “(A) responsibilities of the participating
12 proratable irrigation entities for the planning,
13 design, and construction of infrastructure in
14 consultation and coordination with the Sec-
15 retary;

16 “(B) property titles and responsibilities of
17 the participating proratable irrigation entities
18 for the maintenance of and liability for all in-
19 frastructure constructed under this title;

20 “(C) operation and integration of the
21 projects by the Secretary in the operation of the
22 Yakima Project;

23 “(D) costs associated with the design, fi-
24 nancing, construction, operation, maintenance,
25 and mitigation of projects, with the costs of

1 Federal oversight and review to be nonreim-
2 bursable to the participating proratable irriga-
3 tion entities and the Yakima Project; and

4 “(E) responsibilities for the pumping and
5 operational costs necessary to provide the total
6 water supply available made inaccessible due to
7 drought pumping during the preceding 1 or
8 more calendar years, in the event that the
9 Kachess Reservoir fails to refill as a result of
10 pumping drought storage water during the pre-
11 ceding 1 or more calendar years, which shall re-
12 main the responsibility of the participating pro-
13 ratable irrigation entities.

14 “(2) USE OF KACHESS RESERVOIR STORED
15 WATER.—

16 “(A) IN GENERAL.—The additional stored
17 water made available by the construction of fa-
18 cilities to access and deliver inactive storage in
19 Kachess Reservoir under subsection
20 (a)(2)(A)(ii)(I) shall—

21 “(i) be considered to be Yakima
22 Project water;

23 “(ii) not be part of the total water
24 supply available, as that term is defined in
25 various court rulings; and

1 “(iii) be used exclusively by the Sec-
2 retary—

3 “(I) to enhance the water supply
4 in years when the total water supply
5 available is not sufficient to provide
6 70 percent of proratable entitlements
7 in order to make that additional water
8 available up to 70 percent of prorat-
9 able entitlements to the Kittitas Rec-
10 lamation District, the Roza Irrigation
11 District, or other proratable irrigation
12 entities participating in the construc-
13 tion, operation, and maintenance costs
14 of the facilities under this title under
15 such terms and conditions to which
16 the districts may agree, subject to the
17 conditions that—

18 “(aa) the Bureau of Indian
19 Affairs, the Wapato Irrigation
20 Project, and the Yakama Nation,
21 on an election to participate, may
22 also obtain water from Kachess
23 Reservoir inactive storage to en-
24 hance applicable existing irriga-
25 tion water supply in accordance

1 with such terms and conditions
2 to which the Bureau of Indian
3 Affairs and the Yakama Nation
4 may agree; and

5 “(bb) the additional supply
6 made available under this clause
7 shall be available to participating
8 individuals and entities in pro-
9 portion to the proratable entitle-
10 ments of the participating indi-
11 viduals and entities, or in such
12 other proportion as the partici-
13 pating entities may agree; and

14 “(II) to facilitate reservoir oper-
15 ations in the reach of the Yakima
16 River between Keechelus Dam and
17 Easton Dam for the propagation of
18 anadromous fish.

19 “(B) EFFECT OF PARAGRAPH.—Nothing
20 in this paragraph affects (as in existence on the
21 date of enactment of this section) any contract,
22 law (including regulations) relating to repay-
23 ment costs, water right, or Yakama Nation
24 treaty right.

1 “(3) COMMENCEMENT.—The Secretary shall
2 not commence entering into agreements pursuant to
3 subsection (a)(2)(A)(ii) or subsection (b)(1) or im-
4 plementing any activities pursuant to the agree-
5 ments before the date on which—

6 “(A) all applicable and required feasibility
7 studies, environmental reviews, and cost-benefit
8 analyses have been completed and include favor-
9 able recommendations for further project devel-
10 opment, including an analysis of—

11 “(i) the impacts of the agreements
12 and activities conducted pursuant to sub-
13 section (a)(2)(A)(ii) on adjacent commu-
14 nities, including potential fire hazards,
15 water access for fire districts, community
16 and homeowner wells, future water levels
17 based on projected usage, recreational val-
18 ues, and property values; and

19 “(ii) specific options and measures for
20 mitigating the impacts, as appropriate;

21 “(B) the Secretary has made the agree-
22 ments and any applicable project designs, oper-
23 ations plans, and other documents available for
24 public review and comment in the Federal Reg-
25 ister for a period of not less than 60 days; and

1 “(C) the Secretary has made a determina-
 2 tion, consistent with applicable law, that the
 3 agreements and activities to which the agree-
 4 ments relate—

5 “(i) are in the public interest; and

6 “(ii) could be implemented without
 7 significant adverse impacts to the environ-
 8 ment.

9 “(4) ELECTRICAL POWER ASSOCIATED WITH
 10 KACHESS DROUGHT RELIEF PUMPING PLANT.—

11 “(A) IN GENERAL.—The Administrator of
 12 the Bonneville Power Administration, pursuant
 13 to the Pacific Northwest Electric Power Plan-
 14 ning and Conservation Act (16 U.S.C. 839 et
 15 seq.), shall provide to the Secretary project
 16 power to operate the Kachess Pumping Plant
 17 constructed under this title if inactive storage
 18 in Kachess Reservoir is needed to provide
 19 drought relief for irrigation, subject to the re-
 20 quirements of subparagraphs (B) and (C).

21 “(B) DETERMINATION.—Power may be
 22 provided under subparagraph (A) only if—

23 “(i) there is in effect a drought dec-
 24 laration issued by the State of Washington;

1 “(ii) there are conditions that have led
2 to 70 percent or less water delivery to pro-
3 ratable irrigation districts, as determined
4 by the Secretary; and

5 “(iii) the Secretary determines that it
6 is appropriate to provide power under that
7 subparagraph.

8 “(C) PERIOD OF AVAILABILITY.—Power
9 under subparagraph (A) shall be provided until
10 the date on which the Secretary determines that
11 power should no longer be provided under that
12 subparagraph, but for not more than a 1-year
13 period or the period during which the Secretary
14 determines that drought mitigation measures
15 are necessary in the Yakima River basin.

16 “(D) RATE.—The Administrator of the
17 Bonneville Power Administration shall provide
18 power under subparagraph (A) at the then-ap-
19 plicable lowest Bonneville Power Administration
20 rate for public body, cooperative, and Federal
21 agency customers firm obligations, which as of
22 the date of enactment of this section is the pri-
23 ority firm Tier 1 rate, and shall not include any
24 irrigation discount.

1 “(E) LOCAL PROVIDER.—During any pe-
 2 riod in which power is not being provided under
 3 subparagraph (A), the power needed to operate
 4 the Kachess Pumping Plant shall be obtained
 5 by the Secretary from a local provider.

6 “(F) COSTS.—The cost of power for such
 7 pumping, station service power, and all costs of
 8 transmitting power from the Federal Columbia
 9 River Power System to the Yakima Enhance-
 10 ment Project pumping facilities shall be borne
 11 by irrigation districts receiving the benefits of
 12 that water.

13 “(G) DUTIES OF COMMISSIONER.—The
 14 Commissioner of Reclamation shall be respon-
 15 sible for arranging transmission for deliveries of
 16 Federal power over the Bonneville system
 17 through applicable tariff and business practice
 18 processes of the Bonneville system and for ar-
 19 ranging transmission for deliveries of power ob-
 20 tained from a local provider.

21 “(c) DESIGN AND USE OF GROUNDWATER RE-
 22 CHARGE PROJECTS.—

23 “(1) IN GENERAL.—Any water supply that re-
 24 sults from an aquifer storage and recovery project

1 shall not be considered to be a part of the total
2 water supply available if—

3 “(A) the water for the aquifer storage and
4 recovery project would not be available for use,
5 but instead for the development of the project;

6 “(B) the aquifer storage and recovery
7 project will not otherwise impair any water sup-
8 ply available for any individual or entity entitled
9 to use the total water supply available; and

10 “(C) the development of the aquifer stor-
11 age and recovery project will not impair fish or
12 other aquatic life in any localized stream reach.

13 “(2) PROJECT TYPES.—The Secretary may pro-
14 vide technical assistance for, and participate in, any
15 of the following 3 types of groundwater recharge
16 projects (including the incorporation of groundwater
17 recharge projects into Yakima Project operations, as
18 appropriate):

19 “(A) Aquifer recharge projects designed to
20 redistribute Yakima Project water within a
21 water year for the purposes of supplementing
22 stream flow during the irrigation season, par-
23 ticularly during storage control, subject to the
24 condition that if such a project is designed to
25 supplement a mainstem reach, the water supply

1 that results from the project shall be credited to
2 instream flow targets, in lieu of using the total
3 water supply available to meet those targets.

4 “(B) Aquifer storage and recovery projects
5 that are designed, within a given water year or
6 over multiple water years—

7 “(i) to supplement or mitigate for mu-
8 nicipal uses;

9 “(ii) to supplement municipal supply
10 in a subsurface aquifer; or

11 “(iii) to mitigate the effect of ground-
12 water use on instream flow or senior water
13 rights.

14 “(C) Aquifer storage and recovery projects
15 designed to supplement existing irrigation water
16 supply, or to store water in subsurface aquifers,
17 for use by the Kittitas Reclamation District,
18 the Roza Irrigation District, or any other pro-
19 ratable irrigation entity participating in the re-
20 payment of the construction, operation, and
21 maintenance costs of the facilities under this
22 section during years in which the total water
23 supply available is insufficient to provide to
24 those proratable irrigation entities all water to

1 which the entities are entitled, subject to the
2 conditions that—

3 “(i) the Bureau of Indian Affairs, the
4 Wapato Irrigation Project, and the
5 Yakama Nation, on an election to partici-
6 pate, may also obtain water from aquifer
7 storage to enhance applicable existing irri-
8 gation water supply in accordance with
9 such terms and conditions to which the
10 Bureau of Indian Affairs and the Yakama
11 Nation may agree; and

12 “(ii) nothing in this subparagraph af-
13 fects (as in existence on the date of enact-
14 ment of this section) any contract, law (in-
15 cluding regulations) relating to repayment
16 costs, water right, or Yakama Nation trea-
17 ty right.

18 “(d) FEDERAL COST-SHARE.—

19 “(1) IN GENERAL.—The Federal cost-share of a
20 project carried out under this section shall be deter-
21 mined in accordance with the applicable laws (in-
22 cluding regulations) and policies of the Bureau of
23 Reclamation.

24 “(2) INITIAL PHASE.—The Federal cost-share
25 for the initial development phase of the Integrated

1 Plan shall not exceed 50 percent of the total cost of
2 the initial development phase.

3 “(3) STATE AND OTHER CONTRIBUTIONS.—The
4 Secretary may accept as part of the non-Federal
5 cost-share of a project carried out under this section,
6 and expend as if appropriated, any contribution (in-
7 cluding in-kind services) by the State of Washington
8 or any other individual or entity that the Secretary
9 determines will enhance the conduct and completion
10 of the project.

11 “(4) LIMITATION ON USE OF OTHER FEDERAL
12 FUNDS.—Except as otherwise provided in this title,
13 other Federal funds may not be used to provide the
14 non-Federal cost-share of a project carried out
15 under this section.

16 “(e) SAVINGS AND CONTINGENCIES.—Nothing in this
17 section shall—

18 “(1) be a new or supplemental benefit for pur-
19 poses of the Reclamation Reform Act of 1982 (43
20 U.S.C. 390aa et seq.);

21 “(2) affect any contract in existence on the date
22 of enactment of this section that was executed pur-
23 suant to the reclamation laws;

1 “(3) affect any contract or agreement between
2 the Bureau of Indian Affairs and the Bureau of
3 Reclamation;

4 “(4) affect, waive, abrogate, diminish, define, or
5 interpret the treaty between the Yakama Nation and
6 the United States; or

7 “(5) constrain the continued authority of the
8 Secretary to provide fish passage in the Yakima
9 Basin in accordance with the Hoover Power Plant
10 Act of 1984 (43 U.S.C. 619 et seq.).

11 **“SEC. 1214. OPERATIONAL CONTROL OF WATER SUPPLIES.**

12 “The Secretary shall retain authority and discretion
13 over the management of project supplies to optimize oper-
14 ational use and flexibility to ensure compliance with all
15 applicable Federal and State laws, treaty rights of the
16 Yakama Nation, and legal obligations, including those
17 contained in this Act. That authority and discretion in-
18 cludes the ability of the United States to store, deliver,
19 conserve, and reuse water supplies deriving from projects
20 authorized under this title.”.

○